

Message Text

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ACTION ARA-10

INFO OCT-01 ISO-00 OFA-01 L-03 INT-05 COME-00 EB-07 SSO-00

DLOS-04 CIAE-00 INR-07 NSAE-00 INRE-00 SS-15 /053 W

----- 078654

O R 071630Z JUL 75 ZFF-1

FM AMEMBASSY NASSAU

TO SECSTATE WASHDC IMMEDIATE 6903

INFO COMDT COGARD WASHDC

CCGDSEVEN MIAMI

C O N F I D E N T I A L SECTION 1 OF 4 NASSAU 1095

E.O. 11652: GDS

TAGS: EFIS, BF

SUBJECT: SPINY LOBSTER NEGOTIATIONS

REF: A. NASSAU 1085, B. NASSAU 1087, C. NASSAU 1092

D. NASSAU 1093

1. IN AN EFFORT TO THINK THROUGH THE SORTS OF ISSUES WHICH COULD ARISE IN THE EVENT THAT GCOB PROPOSES A NEGOTIATION ON THE SPINY LOBSTER PROBLEM ALONG LINES SUGGESTED BY PRIME MINISTER TO AMBASSADOR (REF A), WE HAVE TRIED OUR HAND AT IDENTIFYING A LIST OF RELEVANT QUESTIONS (PARA 8 BELOW) WHICH SEEM TO US LIKELY TO REQUIRE ANSWERS BEFORE US CAN BE SATISFIED ITS INTERESTS ARE PROPERLY PROTECTED IN ANY AGREEMENT TO BE NEGOTIATED.

2. WE ARE ONLY ALL TOO AWARE OF THE SHORTCOMINGS OF THIS LIST. IT IS CERTAINLY NOT COMPLETE. WE HAVE MADE NO EFFORT AT IDENTIFYING WHICH QUESTIONS SHOULD BE GIVEN PRIORITY TREATMENT. IT IS ENTIRELY LIKELY THAT AT LEAST SOME OF THE QUESTIONS MAY NOT TURN OUT TO BE RELEVANT OR AT LEAST RELEVANT IN THE TERMS WE HAVE POSED THEM. AND FINALLY, IT IS ENTIRELY PROBABLE THAT CERTAIN OF THE QUESTIONS, EVEN IF DEEMED RELEVANT, MAY NOT BE IN USG INTEREST TO RAISE IN THE NEGOTIATIONS. NEVERTHELESS, DESPITE THESE LIMITATIONS, WE BELIEVE THE LIST IS A
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GOOD STARTING POINT AND WITH WASHINGTON REVIEW, REFINEMENT

AND ADDITION CAN PROVIDE THE FRAMEWORK FOR COMPREHENSIVE AND EFFECTIVE US PREPARATION.

3. ONE ISSUE WHICH THE MERE LISTING OF THESE QUESTIONS POSES TO OUR MINDS IS WHETHER IN FACT, AS SUGGESTED BY PRIME MINISTER TO AMBASSADOR, A SHORT, CONCENTRATED NEGOTIATION CAN RESULT ON A DEFINITIVE AGREEMENT BEFORE AUGUST 1. ANSWER TO THIS IN LARGE MEASURE DEPENDENT UPON HOW RAPIDLY WASHINGTON BELIEVES IT CAN SUPPLY US WITH DEFINITIVE ANSWERS AND/OR GUIDANCE TO THOSE QUESTIONS WHICH ON REFLECTION DO SEEM RELEVANT.

4. EVEN IF, ON REFLECTION, WE CONCLUDE NUMBER AND COMPLEXITY OF ISSUES ARE SO GREAT AS TO MAKE COMPLETION DEFINITIVE NEGOTIATION BY AUGUST 1 IMPROBABLE, MY OWN VIEW WOULD BE THAT FOR TACTICAL PURPOSES WE NOT APPROACH THE NEGOTIATIONS WITH THAT PERSPECTIVE. IF AS EXPECTED, GCOB AGREES TO ATTEMPT TO NEGOTIATE A DEFINITIVE AGREEMENT BY AUGUST 1, LET'S TRY AND DO SO. FIRST OF ALL, SOME OF THE COMPLEXITIES MAY RESOLVE THEMSELVES MAKING AGREEMENT POSSIBLE, BUT SECONDLY, EVEN IF THAT PROVES NOT TO BE THE CASE, RECOGNITION THAT A DEFINITIVE AGREEMENT CANNOT BE REACHED BY AUGUST 1 IS ONE THAT SHOULD BE A MUTUALLY ARRIVED AT CONCLUSION GROWING OUT OF THE NEGOTIATIONS, THUS MAKING AN ALTERATION IN APPROACH A LOGICAL PROCESS, NOT ONE SUGGEST A PRIORI BY USG.

5. SPECIFICALLY, HOWEVER, WHAT I DO HAVE IN MIND IS THAT IF WE SHOULD REACH THE CONCLUSION THAT THE QUESTIONS RAISED BY THE PROJECTED NEGOTIATION ARE TOO LENGTHY AND COMPLEX TO BE DEFINITELY HANDLED WITHIN A BRIEF, NEAR TERM NEGOTIATION WE MIGHT CONSIDER WHETHER THE IMMEDIATE NEGOTIATION SHOULD NOT INSTEAD ATTEMPT TO REACH AGREEMENT ON CERTAIN GENERAL PRINCIPLES, SUBJECT TO SUBSEQUENT WORKING OUT OF THE DETAILS. IF THIS LATTER WERE TO BE THE USG POSITION (AND WERE TO BE AGREED TO BY GCOB) WE WOULD PRESUMABLY WISH TO INSIST THAT, PENDING THE WORKING OUT OF DETAILS, A DEFACTO MORATORIUM WOULD BE DECLARED ON ENFORCEMENT AND ON COMPLIANCE WITH ANY OTHER ASPECTS WHICH WERE EMBODIED IN THE AGREED CONFIDENTIAL

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GENERAL PRINCIPLES, E.G. LANDING OF CATCH AT GCOB PORTS.

6. WE SERIOUSLY DOUBT GCOB HAS THOUGHT THROUGH THIS PROBLEM, OR WILL HAVE DONE SO PRIOR TO ONSET OF NEGOTIATIONS. IF SO, IT BEHOVES US TO DO SO, SO THAT WE MAY MAKE THE MOST PERSUASIVE POSSIBLE CASE ON THE SUBSTANCE OF THE ISSUES INVOLVED AS WELL AS WITH REGARD TO THE PROCEDURE TO BE FOLLOWED, E.G. THE AFOREMENTIONED POSSIBILITY OF A

NEGOTIATION ON GENERAL PRINCIPLES FOLLOWED BY WORKING OUT
OF DETAILS.

7. RECOMMENDATION.

A) THAT WASHINGTON REVIEW, REVISE AND COMMENT ON
QUESTIONS LISTED IN PARA 8 BELOW.
B) THAT WORK BE INITIATED ON AN URGENT BASIS TO
DEVELOP ANSWERS TO THE QUESTIONS LISTED.
C) THAT WASHINGTON GIVE US ITS VIEWS ON THE FEASIBILITY
OF COMPLETING DEFINITIVE NEGOTIATIONS PRIOR TO
AUGUST 1 OPENING OF LOBSTER SEASON AS CONTRASTED TO
NEGOTIATIONS DESIGNED TO REACH AGREEMENT ON GENERAL PRINCIPLES.

8. QUESTIONS TO BE CONSIDERED IN PREPARATION OF US
NEGOTIATING POSITION AND WHICH MAY BE PERTINENT TO
CONDUCT AND CONTENT OF ACTUAL NEGOTIATIONS.

I. POLICY

A. LOS

(1) ARE THERE IN LOS CONFERENCE NEGOTIATIONS
ISSUES WHICH COULD BE AFFECTED BY US/GCOB LOBSTER NEGOTIATIONS?

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INFO OCT-01 ISO-00 OFA-01 L-03 INT-05 COME-00 EB-07 SSO-00

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C O N F I D E N T I A L SECTION 2 OF 4 NASSAU 1095

II. NATURE OF THE LOBSTER INDUSTRY BASED ON BAHAMIAN
CLAIMED FISHING AREAS

A. THE US INDUSTRY

(1) WHERE IS IT LOCATED:

(-) WHERE PRECISELY ARE THE MAJOR FISHING AREAS?

(B) WHERE ARE MAJOR PROCESSING FACILITIES LOCATED?

(2) WHAT IS IT WORTH IN PLANT EQUIPMENT AND BOATS?

(3) WHAT IS THE SIZE OF THE TOTAL ANNUAL CATCH?

(R) WHAT IS THE PRICE OF THE CATCH FROM THE FISHERMAN TO THE WHOLESALE?

(5) WHAT IS THE RETAIL PRICE OF THE LOBSTER?

(6) WHAT ARE THE AVERAGE EARNINGS PER FISHERMAN?

(7) HOW MANY PEOPLE ARE EMPLOYED IN THE INDUSTRY?

(A) DIRECTLY (FISHERMEN, PROCESSORS ETC)?

(B) INDIRECTLY (E.G. BOAT MANUFACTURERS?)

(8) WHAT ARE THE REGULATIONS WHICH GOVERN US BASED FISHERMEN FISHING IN WATERS BEYOND US JURISDICTION?

(9) IN THOSE INSTANCES IN WHICH BOAT CAPTAINS ARE NOT THE BOAT OWNERS, WHAT ARE THE TERMS OF THEIR ARRANGEMENTS WITH THE ONSHORE FISHING COMPANIES?

(10) CAN THE BOATS BE CATEGORIZED BY SIZE (E.G. FOR LICENSING OR TARIFF PURPOSES); BY NUMBER OF POTS PER BOAT; CONFIDENTIAL

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BY TYPE OF BOATS USED; BY NUMBER OF CREW?

(11) WHAT ARE THE VARIOUS FISHING METHODS EMPLOYED?

(12) UNDER WHAT REGULATIONS AND UNDER WHOSE JURISDICTION (STATE OR FEDERAL) IS THE CATCH OFF LOADED IN THE US?

(13) IS THE FLORIDA LOBSTER INDUSTRY IN COMPETITION WITH OTHER US FISH INDUSTRIES, I.E. MAINE LOBSTER?

B. BAHAMIAN INDUSTRY. (ALL US QUESTIONS ARE APPLICABLE)

(1) SIZE OF FISHING FLEET?

(2) WHERE LOCATED

(3) WHERE DOES IT FISH

(4) WHAT METHODS DOES IT USE

(5) WHAT REGULATIONS GOVERN ITS ACTIVITIES IN TERMS OF SIZE, METHOD, CATCH

(6) WHERE DO THEY OFF LOAD

(7) DO THEY EVER OFF LOAD IN THE US

(8) IF SO, WHAT PERCENTAGE OF THEIR CATCH IS OFF LOADED THERE

(9) ARE THERE FACILITIES FOR OFF LOADING IN THE BAHAMAS

(10) WHERE ARE THOSE FACILITIES

(11) HOW MANY PEOPLE DO THEY EMPLOY

(12) HOW COMPLETE IS THE PROCESS

(13) IS BAHAMIAN FISHING FOR THE BAHAMIAN OF THE US MARKET

- (14) WHAT IS THE PRICE OF LOBSTER SOLD IN THE BAHAMAS FOR THE BAHAMIAN MARKET
- (15) WHAT IS THE CAPACITY OF BAHAMIAN FISHING, UNLOADING AND PROCESSING FACILITIES AND ARE THEY BEING FULLY EMPLOYED AT THE PRESENT TIME
- (16) WHAT PLANS EXIST FOR EXPANDING--TO WHAT CAPACITY AND OVER WHAT PERIODS OF TIME
- (17) WHAT IS US BEST ESTIMATE OF BAHAMIAN CAPACITY TO EXPAND

III. NATURE OF THE LOBSTER RESOURCE

- (1) WHAT IS THE SIZE AND QUALITY OF RESOURCE AVAILABLE NOW
- (2) HOW MUCH OF THE PRESENT CATCH IS TAKEN BY US FISHERMEN
- (3) WHAT IS THE MAXIMUM SUSTAINABLE YIELD FOR THE PRESENT WITHOUT REGARD TO LONGER RANGE CONSERVATION MEASURES
- (4) IS THE RESOURCE CURRENTLY BEING OVER OR UNDER FISHED
- (5) WHAT WOULD BE THE SIZE OF THE CATCH ASSUMING
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- THE OBJECTIVE OF MAXIMIZING THE RESOURCE IN THE FUTURE
- (6) IS IT POSSIBLE TO DEFINE AN ANNUAL CATCH WHICH WILL ASSURE THE LONG TERM VIABILITY OF THE RESOURCE WITH AN INCREASING ANNUAL GROWTH IN SIZE AND QUALITY OF THE RESOURCE
 - (7) ASSUMING A DEFINITIVE ANSWER TO (6) ABOVE, HOW WOULD THIS AFFECT THE SIZE OF THE US CATCH AS COMPARED TO PRESENT LEVELS
 - (8) WHAT AREAS OF RESEARCH ARE STILL NEEDED ON THE RESOURCE WHICH WOULD LEND THEMSELVES TO A MUTUAL US/GCOB EFFORT
 - (9) HOW MIGHT SUCH AN EFFORT BE CONDUCTED AND FINANCED AND OVER WHAT PERIOD OF TIME
 - (10) WHAT ARE THE RESEARCH PRIORITIES FOR THE SPINY LOBSTER
 - (11) HOW HIGH A PRIORITY DO WE WISH TO ASSIGN TO RESEARCH
 - (12) WOULD AN OFFER TO ASSIST IN A MAJOR JOINT RESEARCH EFFORT PROVIDE USEFUL LEVERAGE IN THE NEGOTIATIONS

IV. THREE PRINCIPLES IDENTIFIED BY GCOB

A. ENFORCEMENT ASSISTANCE

- (1) WHERE WOULD ENFORCEMENT TAKE PLACE:
 - (A) AT US PORT OF DEPARTURE
 - (B) ON THE FISHING GROUNDS
 - (C) AT THE POINT OF OFF LOADING IN THE BAHAMAS (IF REQUIRED)
 - (D) IF UNLOADED IN THE US

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C O N F I D E N T I A L SECTION 3 OF 4 NASSAU 1095

(2) WHAT LEGAL AUTHORITIES ALREADY EXIST
FOR US ENFORCEMENT ASSISTANCE?

(A) WHAT ARE THE RELEVANT LAWS?

(B) WOULD NEW ONES BE REQUIRED?

(3) ASSUMING AN INFRACTION LED TO APPREHENSION,
WHAT WOULD BE DISPOSITION OF THE BOAT, THE PEOPLE, AND THE
CATCH?

(4) WOULD THE OFFENDING FISHERMEN BE SUBJECT TO PUNISHMENT
IDENTIFIED IN THE BILATERAL AGREEMENT OR SUBJECT TO PARALLEL
NATIONAL LAW, I.E. DO WE EXPECT FLAG OR STATE JURISDICTION?

(5) WHAT PROBLEMS WOULD EACH OF THESE TYPES OF ENFORCEMENT
PROCEDURES POSE FOR THE COAST GUARD?

(6) WHAT ARE COAST GUARD RESOURCES AND CAPABILITIES TO
CARRY OUT THE AFOREMENTIONED ENFORCEMENT?

(7) WOULD ADDITIONAL RESOURCES BE REQUIRED?

(8) WHAT DO WE KNOW OF BAHAMIANS INTENTIONS TO INCREASE
THEIR ENFORCEMENT CAPACITY, E.G. WILL UK BASE QUID IMPROVE
THIS CAPACITY?

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(9) MIGHT INCREASE IN BAHAMIAN ENFORCEMENT COME FROM THE US QUID IN THE MILITARY NEGOTIATIONS?

(10) DOES THIS POSE SIGNIFICANT POLITICAL PROBLEMS FOR THE US?

(11) GIVEN WHAT WE KNOW OF GCOB INTENTIONS, WHAT DO WE JUDGE TO BE THE REALISTIC PACE AT WHICH THEY CAN BE EXPECTED TO INCREASE THEIR ENFORCEMENT CAPACITY?

B. RECIPROCITY

(1) WHAT AREAS ARE AFFECTED, E.G. ONLY FLORIDA WATERS OR DO GCOB EXPECTATION INCLUDE AREAS FURTHER NORTH?

(2) WHAT RESOURCES ARE AFFECTED, I.E. ARE WE DISCUSSING ONLY SPINY LOBSTER ON EACH SIDE OR FIN FISH AS WELL?

(3) IS THERE A HISTORY OF BAHAMIAN EXPLOITATION OF US RESOURCES?

(4) DOES RECIPROCITY EXTEND TO OFF LOADING?

(5) DOES RECIPROCITY EXTEND TO THE ENFORCEMENT OF THE US SHELF?

(6) WHAT IS ONE ESTIMATE OF BAHAMIAN CAPABILITY TO EXPLOIT RECIPROCITY?

(A) CURRENTLY?

(B) IN THE FUTURE?

C. LAND THE CATCH IN THE BAHAMAS

(1) WHERE? I.E. WILL PARTICULAR PORTS BE DESIGNATED? ARE SOME LOCATIONS PREFERABLE TO OTHERS FROM US FISHERMANS POINT OF VIEW?

(2) WHAT WILL BE THE PURPOSE OF LANDING THE CATCH IN GCOB PORTS, I.E. INSPECTION, PROCESSING, ETC?

(3) UNDER WHAT PROCEDURES?
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(4) WHAT CHARGES?

(5) HOW LONG WILL IT TAKE?

(6) UNDER WHAT REGULATIONS CONCERNING THE CATCH AND REGULATIONS CONCERNING THE LICENSING OF

THE VESSEL?

(7) WHAT SPECIFIC CONDITIONS WILL BE
LEVIED WITH RESPECT TO DOCUMENTATION?

--ARE WE TALKING ABOUT LICENSE, IF SO, WHOSE?

--AT WHAT COST?

--HOW CONTROLLED?

--FOR WHAT PERIOD OF TIME?

--WHO IS ELIGIBLE (BY CITIZENSHIP OR BY FLAG)?

--WILL THERE BE A LIMITATION ON NUMBER OF LICENSES ISSUED?

--IF SO, WHAT STANDARDS WILL BE EMPLOYED TO DETERMINE WHO
RECEIVED THE LICENSE IN THE EVENT THERE ARE NOT ENOUGH FOR
ALL FISHERMEN IN THE US INDUSTRY?

--WHO SETS THOSE STANDARDS?

(8) WHAT PERCENTAGE OF THE CATCH WOULD THE US BE EXPECTED
TO PROCESS IN THE BAHAMAS:

(A) INITIALLY

(B) OVER THE NEXT FIVE YEARS

(C) OVER NEXT 10 YEARS

(D) BEYOND?

(9) TO WHAT EXTENT WOULD THE PROCESSING
BE ACCOMPLISHED, IE.E. ICED DOWN, FROZEN, CANNED?

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C O N F I D E N T I A L SECTION 4 OF 4 NASSAU 1095

(10) IS THE GCOB CONSIDERING PURCHASING THE PERCENTAGE OF CATCH

TO BE PROCESSED IN THE BAHAMAS, OR ALTERNATIVELY DOES IT SOLELY
PROPOSE TO CHARGE A FEE FOR PROCESSING? IF THE FORMER, WHAT
GURANTEES WOULD THERE BE FOR A TIMELY PURCHASE AT A FAIR PRICE?

(11) DOES GCOB FORESEE JOINT VENTURES?

- (A) LICENSING?
- (B) FOREIGN OWNED?
- (C) COOPERATIVES?
- (D) EQUITY WITH GCOB?

12) HOW CAN THE ISSUE OF PROCESSING BE COVERED IN AN
AGREEMENT IN ORDER TO BEST PROTECT US
INDUSTRY IN THE LONG RUN?

(13) HOW WOULD US FISHERMEN WHO LEASE THEIR BOATS
FROM US PROCESSING COMPANIES BE AFFECTED ECONOMICALLY BY
REQUIREMENT TO PROCESS PART OF CATCH IN THE BAHAMAS?

14) DOES LANDING IN THE BAHAMAS BY KNOWN US NATIONALS
UNDER US JURISDICTION RAISE QUESTIONS AFFECTING BAHAMIAN
IMMIGRATION POLICY?

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: CONTINENTAL SHELF, SHELLFISH, FISHING AGREEMENTS
Control Number: n/a
Copy: SINGLE
Draft Date: 07 JUL 1975
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: GolinoFR
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1975NASSAU01095
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: GS
Errors: N/A
Film Number: D750234-0308
From: NASSAU
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1975/newtext/t19750781/aaaacuez.tel
Line Count: 461
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION ARA
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 9
Previous Channel Indicators: n/a
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: 75 NASSAU 1085, 75 NASSAU 1087, 75 NASSAU 1092
Review Action: RELEASED, APPROVED
Review Authority: GolinoFR
Review Comment: n/a
Review Content Flags:
Review Date: 03 SEP 2003
Review Event:
Review Exemptions: n/a
Review History: RELEASED <03 SEP 2003 by ElyME>; APPROVED <04 SEP 2003 by GolinoFR>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
06 JUL 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: SPINY LOBSTER NEGOTIATIONS
TAGS: EFIS, BF
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 06 JUL 2006